

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

BENJI D. REED,

Plaintiff,

-against-

9:10-cv-1449 (LEK/RFT)

G. TERBUSH, *et al.*,

Defendants.

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**ORDER**

This matter comes before the Court following a Report-Recommendation filed on April 8, 2015, by the Honorable Randolph F. Treece, U.S. Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and Local Rule 72.3. Dkt. No. 125 (“Report-Recommendation”). *Pro se* Plaintiff Benji Reed (“Plaintiff”) timely filed Objections.<sup>1</sup> Dkt. No. 126 (“Objections”).

Within fourteen days after a party has been served with a copy of a magistrate judge’s report-recommendation, the party “may serve and file specific, written objections to the proposed findings and recommendations.” FED. R. CIV. P. 72(b); L.R. 72.1(c). If no objections are made, or if an objection is general, conclusory, perfunctory, or a mere reiteration of an argument made to the magistrate judge, a district court need review that aspect of a report-recommendation only for clear error. *Barnes v. Prack*, No. 11-CV-0857, 2013 WL 1121353, at \*1 (N.D.N.Y. Mar. 18, 2013); *Farid v. Bouey*, 554 F. Supp. 2d 301, 306-07 & n.2 (N.D.N.Y. 2008); see also *Machicote v. Ercole*, No. 06 Civ. 13320, 2011 WL 3809920, at \*2 (S.D.N.Y. Aug. 25, 2011) (“[E]ven a *pro se* party’s

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<sup>1</sup> Although Plaintiff’s Objections were not received until April 27, 2015, they are dated April 22, 2015. See *Objs.* Under the prison mailbox rule, the Court considers Plaintiff’s Objections timely filed. See *Tracy v. Freshwater*, No. 01-CV-0500, 2008 WL 850594, at \*1 (N.D.N.Y. Mar. 28, 2008).

objections to a Report and Recommendation must be specific and clearly aimed at particular findings in the magistrate's proposal, such that no party be allowed a second bite at the apple by simply relitigating a prior argument."'). "A [district] judge . . . may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b).

In his Objections, Plaintiff asserts in a conclusory fashion that certain material facts are in dispute and therefore preclude summary judgment. See Objs. at 2-3.<sup>2</sup> The facts Plaintiff recites, however, merely reiterate issues addressed in the Report-Recommendation. See id. Plaintiff also states in a wholly conclusory fashion that the Magistrate Judge "overlooked" facts. Id. at 3. Accordingly, the Court reviews the Report-Recommendation for clear error and finds none.

Accordingly, it is hereby:

**ORDERED**, that Report-Recommendation (Dkt. No. 125) is **APPROVED and ADOPTED in its entirety**; and it is further

**ORDERED**, that Defendants' Motion (Dkt. No. 98) for summary judgment is **GRANTED** and the case is **DISMISSED**; and it is further

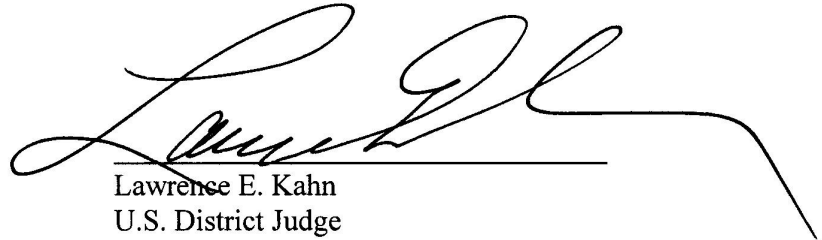
**ORDERED**, that the Clerk of the Court serve a copy of this Order on the parties in accordance with the Local Rules.

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<sup>2</sup> The pagination corresponds to the page numbers assigned by ECF.

**IT IS SO ORDERED.**

DATED: May 28, 2015  
Albany, NY



Lawrence E. Kahn  
U.S. District Judge